

Docket No.: 2328-023RI

COPY

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : : EXPEDITED PROCEDURE
DUANE C. GATES : : Response after Final Rejection
U.S. Patent Application No. 09/534,814 : : Confirmation No. 9066
Filed: March 22, 2000 : : Group Art Unit: 3742
For: SEGMENTED COIL FOR GENERATING PLASMA IN PLASMA PROCESSING
EQUIPMENT : : Examiner: MARK H. PASCHALL

RESPONSE AFTER FINAL REJECTION

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is submitted in reply to the Office Action mailed March 22, 2004, which was made Final.

CERTIFICATION OF FACSIMILE TRANSMISSION
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09/19/2004 07:49 4107564622

ALLAN LOWE

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ARGUMENT

Section 714.13 of the MPEP states:

If an applicant initially replies within 2 months from the date of mailing of any final rejection setting a 3-month shortened statutory period for reply and the Office does not mail an advisory action until after the end of the 3-month shortened statutory period, the period for reply for purposes of determining the amount of any extension fee will be the date on which the Office mails the advisory action . . .

Applicant filed the response to the March 22, 2004 final rejection on Monday, May 24, 2004, that is within the two month period. The Office failed to issue an advisory action within the shortened statutory period set for response set under 37 CFR 1.136 and has still failed to issue an office action within six months from the date of mailing of the final office action. Because Applicant, per 37 CFR 1.136, only has six months from mailing date of the final rejection, in this instance September 22, 2004, to preserve an application from abandonment, Applicant has submitted a Notice of Appeal along with a petition for extension of time for response therein of three months. Applicant is not at fault for the delay associated with the extension and is therefore entitled to full refund of the \$950 extension fees.

Based on the foregoing, a refund of the extension fee is in order.

Respectfully submitted,
LOWE HAUPTMAN GILMAN & BERNER,

LLP

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Maria Anderson
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Maria Anderson 9-22-04
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